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NATIONSTAR MORTGAGE LLC

7  
8 **UNITED STATES DISTRICT COURT**

9 **SOUTHERN DISTRICT OF CALIFORNIA**

10  
11 NISIM NEZI ARBIB and MICHAL  
FLORENCE ARBIB,

12 Plaintiffs,

13 vs.

14 NATIONSTAR MORTGAGE LLC, a  
15 Delaware Company and DOES 1-10 ,

16 Defendants.

CASE NO. **'14CV1439 WQHDHB**

[Formerly The Superior Court of  
California, San Diego County Case No.  
37-2014-00015128]

**NOTICE OF REMOVAL OF CIVIL  
ACTION BY DEFENDANT  
NATIONSTAR MORTGAGE LLC  
PURSUANT TO 28 U.S.C. SECTION  
1441 [FEDERAL DIVERSITY  
JURISDICTION]**

ACTION FILED: May 12, 2014  
ACTION REMOVED: June 13, 2014

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20 **TO THE UNITED STATES DISTRICT COURT FOR THE**  
21 **SOUTHERN DISTRICT OF CALIFORNIA:**

22 **PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. § 1441, Defendant  
23 Nationstar Mortgage LLC ("Nationstar") hereby removes the action entitled *Nisim*  
24 *Nezi Arbib et al. v. Nationstar Mortgage LLC*, Case No. 37-2014-00015128 filed in  
25 the Superior Court of the State of California, County of San Diego (the "Action") to  
26 the United States District Court for the Southern District of California.

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[Formerly The Superior Court of California, San  
Diego County Case No. 37-2014-00015128]

NOTICE OF REMOVAL

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## I.

**BACKGROUND**

1. On May 12, 2014, Plaintiffs Nisim Nezi Arbib and Michal Florence Arbib ("Plaintiffs") filed the Action in California state court against Nationstar and unnamed doe defendants. *See* Plaintiffs' Complaint ("Complaint") attached as Exhibit 1 to Declaration of Kevin S. Kim in Support of Notice of Removal of Civil Action by Defendant Nationstar Mortgage LLC ("Kim Decl.").

2. Plaintiffs served the Complaint in the Action on Nationstar via personal service on May 15, 2014. *See* Kim Decl., ¶3. Based on the foregoing, Defendants have timely filed this Notice of Removal. *See* 28 U.S.C. § 1446.

## II.

**REMOVAL IS PROPER BASED ON THIS COURT'S DIVERSITY****JURISDICTION**

3. The Action may be removed to this Court by Nationstar pursuant to 28 U.S.C. § 1441(a). The Action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332(a) because there is complete diversity among the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

**Diversity of Citizenship**

4. Plaintiffs are, and at the time they filed the Complaint were, citizens of the State of California. *See* Complaint, ¶1; *see also* Kim Decl., ¶4.

5. Nationstar is not a citizen of California. For the purposes of determining diversity of citizenship, a limited liability company has the citizenship of its members. *See Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006); *GMAC Comm'l Credit LLC v. Dillard Dept. Stores, Inc.* 357 F.3d 827, 829 (8th Cir. 2004).

6. Defendant Nationstar's Citizenship: Defendant Nationstar is a citizen of Texas and Delaware. *See* Kim Decl., ¶5. Defendant Nationstar is a limited

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liability company organized under Delaware law. *Id.* Nationstar's members are Nationstar Sub1LLC (with 99% ownership) and Nationstar Sub2LLC (with 1% ownership); both members are also Delaware limited liability companies. *Id.* Nationstar Sub1LLC and Nationstar Sub2LLC are both owned 100% by Nationstar Mortgage Holdings, Inc., a Delaware corporation. *Id.* Nationstar Mortgage Holdings, Inc.'s principal place of business is located at 350 Highland Drive, Lewisville, Texas 75067. *Id.*

7. Doe Defendants: The only other defendants in the caption are Does 1-10. *See* Kim Decl., ¶6. The citizenship of Doe Defendants are disregarded for purposes of determining whether removal is proper under 28 U.S.C. § 1332(a). 28 U.S.C. § 1441(b)(1); *see also Inglis v. D.R. Horton, Inc.*, 2008 WL 4997611 \*2 (S.D. Cal. Nov. 24, 2008).

8. Further, upon information and belief, Does 1-10 have not been named or served as defendants in the Action; thus, their consent to removal is not required. *See* Kim Decl., ¶7; *see also Emrich v. Touche Ross & Co.*, 846 F.2d 1190, 1193 n.1 (9th Cir. 1988) (stating that the requirement for consent applies "only to defendants properly joined and served in the action"), *Salveson v. Western States Bankcard Ass'n*, 731 F.2d 1423, 1428 (9th Cir. 1984), *overruled on other grounds by Ethridge v. Harbor House Restaurant*, 861 F.2d 1389 (9th Cir. 1988).

### Amount in Controversy

9. The amount in controversy in this Action exceeds \$75,000, satisfying the requirement of 28 U.S.C. Section 1332(a). Here, Plaintiffs set forth two causes of action in connection with their alleged attempt to obtain a loan modification regarding the property located at 2815 Santa Fe Vista Court, Encinitas, California 92024 ("Subject Property"). *See generally*, Complaint. Critically, Plaintiffs seek injunctive relief to enjoin the non-judicial foreclosure of the Subject Property. *See* Complaint, ¶¶ 21-24, Prayer for Relief, Section 1; *see also* Kim Decl., ¶8. "In actions seeking ... injunctive relief, it is well established that the amount in

1 controversy is measured by the value of the object of the litigation.” *Hunt v. Wash.*  
2 *State Apple Adver. Comm’n*, 432 U.S. 333, 347, 97 S.Ct. 2434, 53 L.Ed.2d 383  
3 (1977); *see also Cohn v. Petsmart*, 281 F.3d 837, 840 (9th Cir.2002). “If the  
4 primary purpose of a lawsuit is to enjoin a bank from selling or transferring  
5 property, then the property is the object of the litigation.” *Reyes v. Wells Fargo*  
6 *Bank, N.A.*, 2010 WL 2629785 \*4 (N.D. Cal. June 29, 2010)(citing *Garfinkle v.*  
7 *Wells Fargo Bank*, 483 F.2d 1074, 1076 (9th Cir.1973)); *see also Cabriaes v.*  
8 *Aurora Loan Servs.*, 2010 WL 761081 \*3 (N.D. Cal. Mar. 2, 2010) (determining  
9 property value as the object of litigation where plaintiff sought to enjoin foreclosure  
10 sale). As Plaintiffs allege in their Complaint and is confirmed by the deed of trust  
11 executed in connection with Plaintiffs’ mortgage loan, Plaintiffs borrowed  
12 \$1,200,000 “to buy the [Subject] Property.” *See* Complaint, ¶5; *see also* Deed of  
13 Trust attached as Exhibit “2” to Kim Decl., ¶8. Accordingly, the value of the  
14 Subject Property well-exceeds \$75,000. *See Cabriaes*, 2010 WL 761081 \*3  
15 (determining amount in controversy requirement satisfied based on the amount of  
16 loan secured to purchase property); *Zepeda v. U.S. Bank, N.A.*, 2011 WL 4351801  
17 \*3, 4 (C.D. Cal. Sept. 16, 2011) (same).

18 10. In addition to injunctive relief, Plaintiffs seek unspecified “actual  
19 damages” and the greater of “treble damages or up to \$50,000,” which combined  
20 with the value of the Subject Property well-exceeds \$75,000. *See* Complaint, Prayer  
21 for Relief Sections 2 and 3. Accordingly, for the reasons set forth above, the  
22 amount in controversy in this Action is sufficiently in excess of \$75,000 as required  
23 under 28 U.S.C. Section 1332(a).

### 24 III.

#### 25 Procedural Requirements

26 11. Removal to this venue is proper under 28 U.S.C. § 1441(a). The  
27 Superior Court of the State of California, County of San Diego is located within the  
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1 Southern District of California and thus, the Court is “the district and division  
2 embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

3 12. Pursuant to 28 U.S.C. § 1446(a), Exhibit “1” consists of all of the  
4 documents that Nationstar has obtained that were filed in the Action. *See* Kim  
5 Decl., ¶9.

6 13. Pursuant to 28 U.S.C. § 1446(d), Nationstar is contemporaneously  
7 filing a copy of this Notice of Removal with the Clerk of the Superior Court of the  
8 State of California, County of San Diego, and Nationstar will promptly serve  
9 Plaintiffs with copies of this Notice of Removal and the notice filed in state court.  
10 *See* Exhibit “3” to Kim Decl., ¶10.

11 DATED: June 13, 2014

GREEN & HALL, A Professional Corporation

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13  
14 By: /s/ Kevin S. Kim

Howard D. Hall

Kevin S. Kim

Attorneys for

NATIONSTAR MORTGAGE LLC